

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5-13-2008 been fully considered but they are not persuasive.

1. With regard to the title, the applicant's comments do not overcome the objection since the majority of the independent claims states "pre-empting" a call/transfer if an emergency call is made.

Claim 28 does not specifically state this concept, and would be restrictable, but the examiner will let the applicant make the decision about which claims to prosecute and how to adequately title their invention. It is the examiner's position that the majority should dictate and thus the title should include the concept of pre-empting calls/service in deference to an emergency.

2. Claims 11-12 and 15-19 are allowed based on the amendment as recommended by the examiner.

3. With regard to the applicant's arguments, Timm teaches a communications systems while Nojima and Uhlik teach call prioritization as well as pre-empting of calls due to an emergency which clearly reads on the non-allowed claims.

4. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The claimed concepts are found in the prior art and motivational statements have been put forth as well (eg. one skilled would want to prioritize any communications and defer to the most important transmission, eg. emergency, car problem, normal voice call, etc.). The applicant must understand that the "combination" of art must be considered and not the individual pieces.

5. With respect to the KSR commentary, the examiner believes the prior art clearly puts forth prior art teachings of a) a communications system supporting transmission and reception of data between users of the network, b) prioritizing of data transmission, eg. an understanding of each type of transmission possible and c) based on the understanding of the different types of transmission, prioritizing them and pre-empting any if an emergency call is instituted.

One skilled would consider that the prior art and general testing of the concepts found would lead to the claimed invention found in the applicant's claims.

Furthermore, KSR also requires that the combination be challenging and require non-obvious modifications. The examiner believes that Timm, Nojima and Uhlik are readily modified into the claimed invention (eg. pre-emptive communications among prioritized services).

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

- Due to recent amendment(s), the examiner believes a more apt title can be applied which more closely defines the focus of the inventive concept, eg. perhaps something to do with pre-emptive call processing during an emergency call between central and mobile/remote users (?).
- As currently written, "System and method for communication between a central station and remote objects", the title reflects very little about the main focus of the newly amended concept(s).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 23, 25 and 27-28 and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Timm et al. US 5,572,204 and further in view of Nojima US 5,933,080 and Uhlik et al. US 6,600,914.

As per **claims 23 and 25 and 32**, Timm teaches a system for communication between at least one central station (figure 1, #15) and at least one remote mobile or stationary object (figure 1, #10 is vehicle-mounted hardware) by means of transmitting and receiving means wherein said at least one object comprises a cellular phone module which provides a private subscription for private usage by a driver or operator of the object (figure 1, #22 shows cellular transceiver which reads on a cell phone) and a selectable service subscription for transmitting and managing at least an emergency assistance service by means of the at least one central station (abstract teaches both and C1, L60 to C2, L30) **but is silent on** said emergency assistance service preempts ongoing phone calls such that ongoing phone calls are interrupted in deference thereto.

Nojima teaches an emergency calling system that prioritizes who is to be contacted based on certain roadway conditions and/or accident (see abstract, figures 1 and 3).

Uhlik teaches providing a communications channel to a user if it is determined that said user is making an emergency call whereby a call in progress is disconnected (eg. preempted) in order to provide a communications circuit to said emergency call (Abstract).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Timm, ongoing calls are preempted for an emergency

call, to provide means for insuring that an emergency call is always given priority and a communications channel.

With further regard to claims 25 and 27, Uhlik teaches preempting calls based on priority (eg. emergency), which reads on the claim, eg. wherein a conflict concerning simultaneous execution of several services during service subscription is handled automatically by assigning and affecting a priority to each service and deactivating any services with a minor priority than the service with a first priority.

As per **claim 20**, the combo teaches the system according to claim 11, wherein a transition from private subscription to service subscription can be initiated by a key press of the operator and/or automatically by means of at least one sensor (207) for detecting accidents, emergency or malfunctions of the object or by means of a further sensor for detecting an air-bag deployment (figure 1 shows cellular transceiver and handset which can be used for private subscription, figure 1, #22/#25 while C9, L3-13 teaches automatic service request based on an event such as an airbag deployment).

Claims 21-22, 28 and 34-37 rejected under 35 U.S.C. 103(a) as being unpatentable over Timm and further in view of Nojima/Uhlik.

As per **claims 21 and 28, 34 and 37**, Timm teaches a system for communication between at least one central station (figure 1, #15) and at least one remote mobile or stationary object (figure 1, #10 is vehicle-mounted hardware) by means of transmitting and receiving means wherein said at least one object comprises a cellular phone module which provides a private subscription for private usage by a driver or operator of the object (figure 1, #22 shows cellular transceiver which reads on a cell phone) and a selectable service subscription for transmitting and managing at least one of the services including roadside assistance and emergency by means of the at least one central station (abstract teaches both and C1, L60 to C2, L30) and Timm teaches Power Up mode, Wait Mode and Activation mode (see figure 2) as well as automatic periodic call-in (#39) and Wake-up Control (#43) which read on the claim regarding "...sleep

mode (S), a standby mode (W) and a first service execution mode (T1), wherein the sleep mode is terminated when a wake up timer elapsed and the standby mode is activated in which the object waits for an incoming message from the service center via a cellular and/or a satellite communication for a predetermined period of time, after which the sleep mode is again activated if no message has been received or a requested service is activated if a related message has been received and decoded..."

but is silent on remote status information, malfunction, and diagnostics and maintenance are monitored AND wherein a conflict concerning simultaneous execution of several services during service subscription is handled automatically by assigning and affecting a priority to each service and deactivating any services with a minor priority than the service with first priority.

The examiner notes that if only one communications means exists, then one skilled would need to ensure that service data is prioritized and is based on priority since simultaneous communications is not possible. Conversely, if multiple communication means exist, then service data can be sent via simultaneously and one does not have to prioritize data.

Nojima teaches an emergency calling system that prioritizes who is to be contacted based on certain roadway conditions and/or accident (see abstract, figures 1 and 3).

Uhlik teaches providing a communications channel to a user if it is determined that said user is making an emergency call whereby a call in progress is disconnected (eg. preempted) in order to provide a communications circuit to said emergency call (Abstract).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combo, such that ongoing calls are preempted for an emergency call, to provide means for insuring that an emergency call is always given priority and a communications channel.

With further regard to claim 28, the following concepts were rejected previously (eg. as per claims 11 and 23): "...by means of transmitting and receiving means wherein

said at least one object comprises a cellular phone module, which provides a private subscription for private usage by a driver or operator of the object and a selectable service subscription for transmitting and managing of at least one service like remote status information, malfunction diagnostics and maintenance as well as technical and emergency assistance, by means of the at least one central station....and a first service execution mode for activating the identified service".

With further regard to claim 34, the prior art teaches communications networks/systems (eg. cellular which uses a transceiver and subscription/phone number).

As per **claim 22**, the combo teach the method according to claim 21 wherein the at least one object has a phone mode (figure 1 shows cellular handset/transceiver #22/#25 **but is silent on** a second execution mode (T2), wherein the phone mode is interrupted when a service is requested and the second execution mode is activated, until a cellular and/or a satellite communication between the object and the central station has been established and the service has been executed.

Nojima teaches an emergency calling system that prioritizes who is to be contacted based on certain roadway conditions and/or accident (see abstract, figures 1 and 3). Activating a second mode allows for there to be prioritized levels of data and communications "types" such that one can preempt the other (eg. perhaps the second mode is an emergency mode communiqué and Nojima teaches prioritized calls which would preempt a normal voice call). Uhlik teaches preemption.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combo, such that there is a second execution mode, wherein the phone mode is interrupted when a service is requested, until a cellular and/or a satellite communication between the object and the central station has been established and the service has been executed, to provide means for connecting a service-based call to the central station even if the communication means is being used by the driver, to ensure the service-based call gets through to the central station.

As per **claim 29**, the combo teaches claim 28, wherein the sleep mode is terminated and the standby mode is activated when a wake up timer elapsed – Timm teaches use of various “modes” which can use timers or wakeup signals to wakeup said device.

As per **claim 30**, the combo teaches claim 28, **but is silent on** wherein the standby mode is activated for a predetermined period of time, after which the sleep mode is again activated if no message has been received, or the first service execution mode and a requested service is activated if a related message has been received/decoded.

The examiner takes **Official Notice** that sleep mode devices typically use a timer set to a predetermined time period in which sleep/wake operations occur, which reads on the claim. Another manner in which a device sleeps/wakes is based on receiving a wakeup signal (or page) from the network.

It would have been obvious to one skilled in the art at the time of the invention to modify the combo, such that the standby mode is activated for a predetermined period of time, after which the sleep mode is again activated if no message has been received, or the first service execution mode and a requested service is activated if a related message has been received and decoded, to provide means for coursing through the possible operational modes and how a trigger or timer changes the devices mode.

As per **claim 31**, the combo teaches claim 28, wherein at least one object has implemented a phone mode and a second execution mode, wherein the phone mode is interrupted when a service is requested, and the second execution mode is activated, until a cellular and/or a satellite communication between at least one object and at least one central station has been established and the requested service has been executed (the prior art of record clearly teaches emergency communications which preempts normal communications and the support for several different communications technologies, including at least cellular and satellite, which reads on interrupting and activating one-or-more communications paths depending on availability).

As per **claim 33**, the combo teaches claim 28, wherein the service subscription or a transition from private subscription to service subscription is initiated periodically and/or upon request of at least one central station or of at least one object, and/or by a key press of the operator and/or automatically by means of at least one sensor for detecting accidents, emergency or malfunctions of at least one object or by means of a further sensor for detecting an air-bag deployment or by an alarm in case of a theft (The prior art of record teaches that an emergency or accident can cause various communications to occur, eg. emergency signal is transmitted, call for help, etc – See at least Nojima.).

As per **claim 35**, the combo teaches claim 34, wherein the central station (10) is a customer service center (See Nojima figure 1 which shows many different possible calling number, eg. road service, car dealer, work, home)..

As per **claim 36**, the combo teaches claim 34, **but is silent on** wherein said central station is configured to activate the service subscription.

The examiner notes that remote-control of computers is possible and the prior art shows two-way transfer of voice/data, which reads on the central station activating a “service”. NOTE: General Motors’ ON STAR is a subscription-based service that is well known in the art (see Lumelsky, referenced but not cited – “General Motors Corporation introduced its OnStar system for the 1997 Cadillac model. By linking the car’s cellular phone to a global positioning satellite, OnStar can locate and send help to a stranded or disabled motorist; including sending medical assistance as soon as it detects that the car’s air bag has been deployed. OnStar’s service center operator receives coordinates of an automobile equipped with the OnStar system and could navigate its user, over the cellular phone, with continuous directions”)..

It would have been obvious to one skilled in the art at the time of the invention to modify the combo, such that said central station is configured to activate the service subscription, to provide for remote turn on at initiation of service, after accident, after emergency, etc..

As per **claims 38-40**, the combo teaches claim 37 **but is silent on** a communicating object according to claim 37, wherein the cellular phone module, in the standby mode, is activated and the service subscription is selected OR wherein the cellular phone module, in the sleep mode, terminates and the standby mode is activated when a wake up timer elapses.

Timm teaches several modes and sleep mode is well known for battery saving. Hence one skilled who uses several modes is required to map out their “operation” depending upon the timed requirement for a transition to a new mode OR if a trigger causes a new mode transition (eg. 15minutes has expired or an accident has occurred).

Therefore the examiner takes **Official Notice** the ability to transition from one specific mode to a second mode is a design choice predicated upon either the timer or the trigger causing said transition (eg. an emergency would transition the transceiver to operation mode and transmit a distress call whereas a timer-expiration would simply move the transition state up/down, eg. from sleep to standby to wake and back to sleep, etc.).

It would have been obvious to one skilled in the art at the time of the invention to modify the combo, such that the phone has different modes that are traveled through, to provide means for the device to transition from sleep, standby and active modes based upon timer or signal activation.

Claim 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Timm/Nojima/Uhlík and further in view of Hattori et al. US 6,285,931.

As per **claim 26**, the combo teaches claim 11/23, **but is silent on** wherein said selectable service subscription is further for transmitting and managing services including at least one of remote status information, malfunction information, diagnostics and maintenance information, and technical information.

Hattori teaches a vehicle information system that transmits vehicle diagnosis information to a management station (abstract, figure 1, figure 4 shows areas monitored #41-48, figures 7-10 and C2, L15 to C3, L46).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the combo, such that selectable services transmit/manage at least one of remote status information, malfunction, and diagnostics and maintenance are monitored with conflict resolution for simultaneous execution of a plurality of services, to provide means for obtaining technical vehicle status data from the automobile which can be passed to the central station to assist them in evaluating the car's operation (eg. doesn't work because there is something wrong with the Alternator, it's out of gas, the battery has died, etc.).

Allowable Subject Matter

Claims 11-12, 15-19 and 24 allowed based on the amendment as recommended by the examiner. He believes the claims to be novel over the prior art of record.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. D'Agosta/
Primary Examiner, Art Unit 2617